

IC 7.1-5-10

Chapter 10. Unlawful Sales

IC 7.1-5-10-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 15.5 of this chapter by P.L.80-1986 does not apply to actions accruing before April 1, 1986.
As added by P.L.220-2011, SEC.180.

IC 7.1-5-10-1

Times when sales unlawful

Sec. 1. (a) Except as provided in subsection (c), it is unlawful to sell alcoholic beverages at a time other than that made lawful by the provisions of IC 7.1-3-1-14.

(b) During the time when the sale of alcoholic beverages is unlawful, no alcoholic beverages shall be sold, dispensed, given away, or otherwise disposed of on the licensed premises and the licensed premises shall remain closed to the extent that the nature of the business carried on at the premises, as at a hotel or restaurant, permits.

(c) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

(d) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.51, SEC.7; P.L.3-1997, SEC.423; P.L.205-1999, SEC.18; P.L.94-2008, SEC.58; P.L.1-2009, SEC.63; P.L.10-2010, SEC.11; P.L.159-2014, SEC.68; P.L.196-2015, SEC.20.

IC 7.1-5-10-2

Unauthorized sales prohibited

Sec. 2. (a) It is unlawful for a permittee to recklessly sell, keep for sale, barter, furnish, or give away an alcoholic beverage which the permittee is not entitled to sell, keep for sale, barter, furnish, or give away under the permit.

(b) A person who violates this section commits a Class B misdemeanor.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.715; P.L.159-2014, SEC.69.

IC 7.1-5-10-3

Unauthorized dealings prohibited

Sec. 3. (a) It is unlawful for a person who is not a permittee to recklessly give away or furnish, to a person other than a guest or a member of the permittee's family, or to recklessly sell, barter, or exchange, an alcoholic beverage unless the permittee is expressly authorized to do so by this title.

(b) A person who violates this section commits a Class B

misdemeanor.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.716; P.L.159-2014, SEC.70.

IC 7.1-5-10-4

Sale of untaxed alcoholic beverages prohibited

Sec. 4. (a) It is unlawful for a person to recklessly sell, give, withdraw for sale or gift, offer for sale, display, barter, exchange, purchase, receive, possess, transport, or store an alcoholic beverage upon which the appropriate excise tax and applicable license fee have not been paid.

(b) A person who violates this section commits a Class B misdemeanor.

(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.56, SEC.35.) As amended by Acts 1978, P.L.2, SEC.717; P.L.159-2014, SEC.71.

IC 7.1-5-10-5

Sale without permit prohibited

Sec. 5. (a) It is unlawful for a person, except as otherwise permitted by this title, to knowingly or intentionally purchase, receive, manufacture, import, or transport, or cause to be imported or transported from another state, territory, or country, into this state, or transport, ship, barter, give away, exchange, furnish, or otherwise handle, or dispose of an alcoholic beverage, or to possess an alcoholic beverage for purpose of sale.

(b) It is unlawful for a person to receive or acquire an alcoholic beverage from a person that the person knows does not hold, unrevoked, the appropriate permit under this title to sell, deliver, furnish, or give the alcoholic beverage to the person.

(c) A person who violates subsection (a) or (b) commits a Class B misdemeanor.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.72.

IC 7.1-5-10-6

Sale of adulterated or misbranded beverage prohibited

Sec. 6. (a) It is unlawful for a person to sell, offer or expose for sale, or have in the person's possession with intent to sell, an alcoholic beverage that is adulterated or misbranded.

(b) It is unlawful for a person to alter or change a brand, label, mark, design, device, or inscription that has reference to the kind, brand, age, quality, quantity, or other description of the alcoholic beverage contents of a bottle or container.

(c) The possession of an adulterated or misbranded alcoholic beverage by a permittee, or other person engaged in the manufacture or traffic in alcoholic beverages, is prima facie evidence of knowledge of the misbranding or adulteration and of an intent to violate a provision of this section.

(d) The possession by a permittee, or other person engaged in the

alcoholic beverage traffic, of a bottle or container used, or intended to be used, for containing an alcoholic beverage on which a label, brand, mark, design, or device has been altered or changed is prima facie evidence of an intent to violate a provision of this section.

(e) A person who violates subsection (a) or knowingly or intentionally violates subsection (b) commits a Class B misdemeanor. *(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.73.*

IC 7.1-5-10-7

Purchase from non-permittee prohibited

Sec. 7. Purchase from Non-Permittee Prohibited. It is a Class C infraction for a person knowingly to purchase, or to agree to purchase, an alcoholic beverage from a person who does not at the time of the purchase hold a permit authorizing the seller to sell, or agree to sell, the alcoholic beverage to the purchaser.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.718.

IC 7.1-5-10-8

Solicitation of certain orders prohibited

Sec. 8. (a) It is unlawful for a person to solicit or receive, or to allow the person's employee to solicit or receive, an order for an alcoholic beverage from another person in violation of a provision of this title.

(b) It is unlawful for a person to give information of how an alcoholic beverage may be obtained in violation of a provision of this title.

(c) A person who knowingly or intentionally violates subsection (a) or (b) commits a Class B misdemeanor.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.74.

IC 7.1-5-10-9

Alcoholic content regulation

Sec. 9. (a) It is unlawful, except as otherwise authorized in this title, for a person to sell, give away, barter, furnish, or exchange, or to possess or keep for a prohibited purpose, alcohol as a beverage, or a beverage or liquid likely to be used or intended to be used as a beverage, which has a content of alcohol that is higher than is permitted by the rules of the commission.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.75.

IC 7.1-5-10-10

Huckstering prohibited

Sec. 10. Huckstering Prohibited. It is a Class C misdemeanor for

a permittee to recklessly deliver an alcoholic beverage to a consumer without an order for it, or to recklessly huckster or peddle an alcoholic beverage to a person who is not a permittee.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.719.

IC 7.1-5-10-11

Sale of cold beer prohibited

Sec. 11. (a) It is unlawful for the holder of a beer dealer's permit to offer or display for sale, or sell, barter, exchange or give away a bottle, can, container, or package of beer that was iced or cooled by the permittee before or at the time of the sale, exchange, or gift.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.76.

IC 7.1-5-10-12

Credit sales prohibited

Sec. 12. (a) Except as provided in subsections (b) through (d), it is unlawful for a permittee to sell, offer to sell, purchase or receive, an alcoholic beverage for anything other than cash. A permittee who extends credit in violation of this section shall have no right of action on the claim.

(b) A permittee may credit to a purchaser the actual price charged for a package or an original container returned by the original purchaser as a credit on a sale and refund to a purchaser the amount paid by the purchaser for a container, or as a deposit on a container, if it is returned to the permittee.

(c) A manufacturer may extend usual and customary credit for alcoholic beverages sold to a customer who maintains a place of business outside this state when the alcoholic beverages are actually shipped to a point outside this state.

(d) An artisan distiller, a distiller, or a liquor or wine wholesaler may extend credit on liquor, flavored malt beverages, and wine sold to a permittee for a period of fifteen (15) days from the date of invoice, date of invoice included. However, if the fifteen (15) day period passes without payment in full, the wholesaler shall sell to that permittee on a cash on delivery basis only.

(e) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.72-1996, SEC.23; P.L.109-2013, SEC.14; P.L.159-2014, SEC.77.

IC 7.1-5-10-13

Cashing of certain checks prohibited

Sec. 13. (a) A permittee who holds a permit to sell at retail shall not cash a check issued by the division of family and children or by a charitable organization if any part of the proceeds of the check are

to be used to purchase an alcoholic beverage.

(b) A permittee who knowingly or intentionally violates this section commits a Class B misdemeanor.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.16-1986, SEC.5; P.L.4-1993, SEC.12; P.L.5-1993, SEC.24; P.L.146-2008, SEC.360; P.L.44-2009, SEC.3; P.L.159-2014, SEC.78.

IC 7.1-5-10-14

Repealed

(Formerly: Acts 1973, P.L.55, SEC.1. As amended by Acts 1978, P.L.2, SEC.720. Repealed by P.L.159-2014, SEC.79.)

IC 7.1-5-10-15

Sale to intoxicated person prohibited

Sec. 15. (a) A person who, knowing that another person is intoxicated, sells, barter, delivers, or gives away an alcoholic beverage to the intoxicated person commits a Class B misdemeanor.

(b) In any civil proceeding in which damages are sought from a permittee or a permittee's agent for the refusal to serve a person an alcoholic beverage, it is a complete defense if the permittee or agent reasonably believed that the person was intoxicated or was otherwise not entitled to be served an alcoholic beverage.

(c) After charges have been filed against a person for a violation of subsection (a), the prosecuting attorney shall notify the commission of the charges filed.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.721; P.L.86-1985, SEC.1; P.L.125-2000, SEC.4; P.L.159-2014, SEC.80.

IC 7.1-5-10-15.5

Person furnishing alcoholic beverage; civil liability for damages; "furnish" defined

Sec. 15.5. (a) As used in this section, "furnish" includes barter, deliver, sell, exchange, provide, or give away.

(b) A person who furnishes an alcoholic beverage to a person is not liable in a civil action for damages caused by the impairment or intoxication of the person who was furnished the alcoholic beverage unless:

(1) the person furnishing the alcoholic beverage had actual knowledge that the person to whom the alcoholic beverage was furnished was visibly intoxicated at the time the alcoholic beverage was furnished; and

(2) the intoxication of the person to whom the alcoholic beverage was furnished was a proximate cause of the death, injury, or damage alleged in the complaint.

(c) If a person who is at least twenty-one (21) years of age suffers injury or death proximately caused by the person's voluntary intoxication, the:

(1) person;

- (2) person's dependents;
- (3) person's personal representative; or
- (4) person's heirs;

may not assert a claim for damages for personal injury or death against a person who furnished an alcoholic beverage that contributed to the person's intoxication, unless subsections (b)(1) and (b)(2) apply.

As added by P.L.80-1986, SEC.1. Amended by P.L.76-1996, SEC.1.

IC 7.1-5-10-16

Repealed

(Formerly: Acts 1973, P.L.55, SEC.1. As amended by Acts 1978, P.L.2, SEC.722. Repealed by P.L.159-2014, SEC.81.)

IC 7.1-5-10-17

Repealed

(Formerly: Acts 1973, P.L.55, SEC.1. As amended by Acts 1978, P.L.2, SEC.723. Repealed by P.L.28-2014, SEC.2.)

IC 7.1-5-10-18

Repealed

(Formerly: Acts 1973, P.L.55, SEC.1. Repealed by P.L.159-2014, SEC.82.)

IC 7.1-5-10-19

Repealed

(Formerly: Acts 1973, P.L.55, SEC.1. Repealed by P.L.159-2014, SEC.83.)

IC 7.1-5-10-20

Unlawful acts by retailers

Sec. 20. (a) It is unlawful for a holder of a retailer's permit to do any of the following:

- (1) Sell alcoholic beverages during a portion of the day at a price that is reduced from the usual, customary, or established price that the permittee charges during the remainder of that day.
- (2) Furnish two (2) or more servings of an alcoholic beverage upon the placing of an order for one (1) serving to one (1) person for that person's personal consumption.
- (3) Charge a single price for the required purchase of two (2) or more servings of an alcoholic beverage.

(b) Subsection (a) applies to private clubs but does not apply to private functions that are not open to the public.

(c) Notwithstanding subsection (a)(1), it is lawful for a holder of a retailer's permit to sell alcoholic beverages during a portion of the day at a price that is increased from the usual, customary, or established price that the permittee charges during the remainder of that day as long as the price increase is charged when the permittee

provides paid live entertainment not incidental to the services customarily provided.

(d) Notwithstanding subsection (a), section 12 of this chapter, and IC 7.1-5-5-7, it is lawful for a hotel, in an area of the hotel in which alcoholic beverages are not sold, to make available to its registered guests and their guests alcoholic beverages at no additional charge beyond what is to be paid by the registered guests as the room rate.

(e) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

As added by P.L.86-1985, SEC.2. Amended by P.L.79-1986, SEC.5; P.L.159-2014, SEC.84.

IC 7.1-5-10-21

Visiting or maintaining place unlawfully selling alcoholic beverages; violation

Sec. 21. (a) A person who knowingly or intentionally visits a building, structure, vehicle, or other place when it is being used by any person to buy an alcoholic beverage (if the sale is in violation of section 5 of this chapter) commits visiting a common nuisance, a Class B misdemeanor.

(b) A person who knowingly or intentionally maintains a building, structure, vehicle, or other place that is used for the sale of alcoholic beverages (if the sale is in violation of section 5 of this chapter) commits maintaining a common nuisance, a Level 6 felony.

As added by P.L.176-1986, SEC.3. Amended by P.L.158-2013, SEC.128.

IC 7.1-5-10-22

Unlawful sale of flavored malt beverage

Sec. 22. (a) It is unlawful for a retailer or dealer to sell a flavored malt beverage except under the same conditions that a retailer or dealer is permitted to sell beer or other alcoholic beverages obtained by the fermentation of an infusion or decoction of barley malt or other cereal and hops in water.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

As added by P.L.72-1996, SEC.24. Amended by P.L.159-2014, SEC.85.

IC 7.1-5-10-23

Purchases for consumption off the licensed premises; proof of age

Sec. 23. It is a Class B misdemeanor for a permittee or an employee or agent of a permittee to recklessly, knowingly, or intentionally sell, barter, exchange, provide, or furnish another person who is or reasonably appears to be less than forty (40) years of age an alcoholic beverage for consumption off the licensed premises without first requiring the person to produce:

(1) a driver's license;

(2) an identification card issued under IC 9-24-16-1 or a similar

card issued under the laws of another state or the federal government; or

(3) a government issued document;

bearing the person's photograph and birth date showing that the person is at least twenty-one (21) years of age.

As added by P.L.10-2010, SEC.12. Amended by P.L.216-2011, SEC.3.

IC 7.1-5-10-24

Restrictions for certain restaurants and drug stores or grocery stores located in the same building

Sec. 24. (a) This section does not apply to the licensed premises of a drug store, grocery store, or restaurant to which the following apply:

(1) A person has, as of July 1, 2015, an application on file with the commission for a:

(A) dealer's permit for the drug store or grocery store; and

(B) retailer's permit for the restaurant.

(2) The licensed premises of the:

(A) drug store or grocery store; and

(B) restaurant;

as described in the permit applications, are located in the same building.

(b) If:

(1) a person has an interest in:

(A) a dealer's permit for a drug store or grocery store; and

(B) a retailer's permit for a restaurant; and

(2) the licensed premises of the drug store or grocery store and the restaurant are located in the same building;

the licensed premises of the drug store or grocery store and the licensed premises of the restaurant must be completely separated by a wall and have separate entrances.

As added by P.L.196-2015, SEC.21.

IC 7.1-5-10-25

Alcoholic beverages sold for carryout prohibited for certain restaurants

Sec. 25. If:

(1) a person has an interest in:

(A) a dealer's permit for a drug store or grocery store; and

(B) a retailer's permit for a restaurant; and

(2) the licensed premises of the drug store or grocery store and the restaurant are located in the same building;

beer, wine, and liquor may not be sold for carryout from the licensed premises of the restaurant.

As added by P.L.196-2015, SEC.22.